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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHINA CENTRAL TELEVISION, a China
company; CHINA INTERNATIONAL
COMMUNICATIONS CO., LTD., a China
company; TVB HOLDINGS (USA), INC., a
California corporation; and DISH
NETWORK L.L.C., a Colorado corporation,
Plaintiffs,

vs.

CREATE NEW TECHNOLOGY (HK)
LIMITED, a Hong Kong company; HUA
YANG INTERNATIONAL TECHNOLOGY
LIMITED, a Hong Kong company;
SHENZHEN GREATVISION NETWORK
TECHNOLOGY CO. LTD., a China
company; CLUB TVPAD, INC., a California
corporation; BENNETT WONG, an
individual, ASHA MEDIA GROUP INC.
d/b/a TVPAD.COM, a Florida corporation;
AMIT BHALLA, an individual;
NEWTVPAD LTD. COMPANY d/b/a
NEWTVPAD.COM a/k/a TVPAD USA, a
Texas corporation; LIANGZHONG ZHOU,
an individual; HONGHUI CHEN d/b/a E-
DIGITAL, an individual; JOHN DOE 1 d/b/a
BETV; JOHN DOE 2 d/b/a YUE HAI; JOHN
DOE 3 d/b/a 516; JOHN DOE 4 d/b/a HITV;
JOHN DOE 5 d/b/a GANG YUE; JOHN
DOE 6 d/b/a SPORT ONLINE; JOHN DOE 7
d/b/a GANG TAI WU XIA; and JOHN DOES
8-10,

Defendants.

Case No.
CV 15-1869 MMM (AJWx)

**PLAINTIFFS' STATEMENT
OF NON-OPPOSITION TO
THE MOTION TO
WITHDRAW AS COUNSEL
FOR DEFENDANT CREATE
NEW TECHNOLOGY (HK)
CO. LTD.; DECLARATION OF
CARLA A. McCAULEY AND
EXHIBITS A AND B**

Courtroom: 780
Date: June 29, 2015
Time: 10:00 a.m.

Complaint Filed: March 13, 2015

1 Plaintiffs China Central Television, China International Communications Co.,
 2 Ltd., TVB Holdings (USA), Inc. and DISH Network L.L.C. (“Plaintiffs”) do not
 3 oppose the motion to withdraw as counsel for Defendant Create New Technology
 4 (HK) Co. Ltd. (“CNT”).

5 However, Plaintiffs note for the record that CNT’s decision to concede its
 6 counsel’s withdrawal along with its decision to default in this action and not provide
 7 any response to the pending motion for preliminary injunction, is part of a larger
 8 litigation strategy of CNT in this action and another pending action in this district,
 9 *Munhwa Broadcasting Corporation, et al. v. Create New Technology (HK) Co. Ltd.,*
 10 *et al.*, Case No. CV 14-4213 RGK (RZx) (“Munhwa Case”). As in Plaintiffs’ action
 11 against CNT, the Munhwa Case also concerns CNT’s operation of a massive pirate
 12 network through the TVpad device that infringes the copyrights of the plaintiffs in
 13 the Munhwa Case. McCauley Decl. Ex. A at 1; *Cf.* Doc. No. 1 (Complaint) at ¶¶ 3-
 14 10.

15 As is clear from the facts provided by counsel in the Motion to Withdraw, as
 16 well as the Munhwa Plaintiffs’ Statement of Non-Opposition to a similar motion for
 17 withdrawal filed in the Munhwa Case, CNT’s decision to authorize its counsel’s
 18 withdrawal in both cases is tactical. After initially entering an appearance in the
 19 instant case, and opposing Plaintiffs’ *ex parte* application to expedite the hearing date
 20 on Plaintiffs’ Motion for Preliminary Injunction, and after also litigating for several
 21 months in the Munhwa Case, CNT suddenly reversed course and suspended its
 22 defense and conceded withdrawal of its counsel immediately after CNT lost an *ex*
 23 *parte* application to compel discovery from CNT. As discussed in both the Motion to
 24 Withdraw filed in this action by counsel for CNT and the Statement of Non-
 25 Opposition by Plaintiffs in the Munhwa Case, that discovery would have required the
 26 production of documents and a deposition by a key employee of CNT in the Munhwa
 27 Case. *See* McCauley Decl. Ex. A at 3:2-22; Doc. No. 56-1 at 3:11-4:12. Rather than
 28 respond to discovery regarding CNT’s pirate television network, or respond to the

1 pending Motion for Preliminary Injunction in the instant action, CNT has opted to
2 default.

3 Notably, the Munhwa Case Plaintiffs requested as part of their Statement of
4 Non-Opposition to the Motion to Withdraw that CNT's Answer in that action be
5 stricken so that they could enter a default. *See* McCauley Decl. Ex. A at 3:23-4:13.
6 Plaintiffs' Request for Default as to CNT was both recently entered. *Id.* at Ex. B.

7 Plaintiffs here have also filed a Request for Default which, as of the date of
8 this filing, remains pending with the Court. *See* Doc. No. 67. Plaintiffs respectfully
9 request that their pending Request for Default against CNT be entered, in light of the
10 instant Motion to Withdraw and counsel's assertions of CNT's intent to default in
11 this action.

12
13 DATED: May 15, 2015

DAVIS WRIGHT TREMAINE LLP
CARLA A. McCAULEY
ROBERT D. BALIN (*pro hac vice*)
LACY H. KOONCE, III (*pro hac vice*)
SAMUEL BAYARD (*pro hac vice*)
GEORGE WUKOSON (*pro hac vice*)

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18 By: /s/ Carla A. McCauley
Carla A. McCauley

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20 Attorneys for Plaintiffs
CHINA CENTRAL TELEVISION; CHINA
21 INTERNATIONAL COMMUNICATIONS CO.,
LTD.; TVB HOLDINGS (USA), INC.; AND
22 DISH NETWORK L.L.C.

DECLARATON OF CARLA A. MCCAULEY

DECLARATION OF CARLA A. MCCAULEY

I, Carla A. McCauley, declare as follows:

1. I am licensed to practice law before all the courts in the State of California and am admitted to the United States Court of Appeals for the Ninth Circuit. I am a partner at Davis Wright Tremaine LLP, counsel for Plaintiffs in the above-entitled matter. I submit this Declaration in support of Plaintiffs' Non-Opposition to the motion to withdraw of counsel for Defendant Create New Technology (HK) Limited ("CNT"). I have personal knowledge of the facts contained herein, and, if called upon as a witness, I could and would testify competently about these facts, except for those matters stated expressly upon information and belief, which matters are believed to be true.

2. Attached hereto as **Exhibit A** is a true and correct copy of the Statement Notice of Non-Opposition to Counsel for Defendant CNT' Motion to Withdraw filed by counsel for Plaintiffs Munhwa Broadcasting Corporation, MBC America holdings, Inc., Seoul Broadcasting System International, Inc. and KBS America, Inc. in the action entitled *Munhwa Broadcasting Corporation, et al. v. Create new Technology (HK) Co. Ltd., et al.*, Case No. CV 14-4213 RGK (RZx).

3. Attached hereto as **Exhibit B** is a true and correct copy of the default entered by the Clerk in the Munhwa Case against CNT on May 5, 2015.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed May 15, 2015 at Los Angeles, California.

/s Carla A. McCauley
Carla A. McCauley

EXHIBIT A

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11 Attorneys for Plaintiffs
12 MUNHWA BROADCASTING CORPORATION;
13 MBC AMERICA HOLDINGS, INC.; SEOUL
14 BROADCASTING SYSTEM INTERNATIONAL,
15 INC.; and KBS AMERICA, INC.

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 MUNHWA BROADCASTING
19 CORPORATION, et al.,

20 Plaintiffs,

21 v.

22 CREATE NEW TECHNOLOGY
23 (HK) CO. LTD., et al.

24 Defendants.

Case No. CV14-4213-RGK-RZx

Hon. R. Gary Klausner

**PLAINTIFFS' STATEMENT OF
NON-OPPOSITION TO COUNSEL
FOR DEFENDANT CREATE NEW
TECHNOLOGY (HK) CO. LTD.'S
MOTION TO WITHDRAW AS
COUNSEL AND REQUEST TO
STRIKE DEFENDANT CREATE
NEW TECHNOLOGY (HK) CO.
LTD.'S ANSWER**

Date: May 18, 2015
Time: 9:00 a.m.
Place: Courtroom 850
Judge: Hon. R. Gary Klausner

I. INTRODUCTION

Plaintiffs Munhwa Broadcasting Corporation, MBC America Holdings, Inc., Seoul Broadcasting System International, Inc., and KBS America, Inc. (collectively “Plaintiffs”) do not oppose the motion to withdraw as counsel filed by counsel for Defendant Create New Technology (HK) Co. Ltd. (“Create”) (Dkt. 174).

However, Plaintiffs request that this Court strike Create’s Answer at *the earliest opportunity* so as to permit Plaintiffs to seek the entry of default against Create without further delay. Create’s counsel’s motion and accompanying declarations make clear that Create has no intention of hiring new counsel or participating in this lawsuit in any fashion, and Create, as a corporate entity, cannot proceed *pro se*. Moreover, Create, in contempt of this Court’s discovery and mediation orders, avers through its President, Zhang Wenwei, that Create has been “instructed that it may not proceed *pro se*, and has been given written notice of the consequences of its inability to appear *pro se*” and yet consents to withdrawal nonetheless. (Declaration of B. Warlick, Dkt. 174-2 (“Warlick Decl.”), Ex. 1.) Importantly, while tactically disregarding this Court’s authority, Create continues to infringe Plaintiffs’ copyrights and trademarks on a massive scale, round the clock, to this day, rendering swift adjudication of the case a matter of urgency. As such, good cause exists for the Court to strike Create’s Answer as soon as is practicable.

II. ARGUMENT

Plaintiffs comprise the U.S. subsidiaries of the three major Korean television networks. As detailed in *Plaintiffs’ Motion For Summary Judgment On Liability Against Create New Technology (Hk) Co. Ltd. And Du Hyun Song* (Dkt. 181, “Summary Judgment Motion”), Create is the mastermind promoter and controller of a massive global copyright infringement piracy ring at the heart of this lawsuit: Create developed, promotes and controls an internet-based broadcast transmission network through which Plaintiffs’ entire catalog of U.S.-copyrighted Korean broadcast television programming is retransmitted by Create to the public, live and

1 on demand, for free, without authorization, twenty-four hours a day, every day.

2 *Three days* before Plaintiffs filed their dispositive motion for summary
 3 judgment on liability and willfulness against Create (Dkt. 181), and *less than two*
 4 *months before trial*, Create’s counsel by its withdrawal motion has informed the
 5 Court that Create has “directed its U.S. counsel to cease work on the matter” (Dkt.
 6 174-1 at 3; Warlick Decl. ¶ 5 & Ex. 1). Create, through its President Wenwei—
 7 (who is also in violation of this Court’s discovery order) avers that Create has been
 8 “instructed that it may not proceed *pro se*, and has been given written notice of the
 9 consequences of its inability to appear *pro se*” and yet consents to withdrawal
 10 nonetheless. (Warlick Decl. Ex. 1.) There is no reason to delay setting in motion
 11 the consequences of Create’s tactical decision to disregard the authority of this
 12 Court. Create’s Answer should be stricken without delay, so that Plaintiffs may
 13 proceed to request the entry of default against Create.

14 **A. Procedural Background**

15 Plaintiffs filed this action against Media Journal, Inc. (“Media Journal”), Du
 16 Hyun Song, Sung Youn Kim, Best4U, Inc., Chilbo Myunok USA LLC (“Chilbo”),
 17 Corea BBQ, Inc., CJ Wilshire, Inc. and Keum S. Kang on June 2, 2014. (Dkt. 1.)
 18 On June 30, 2014, Plaintiffs filed their First Amended Complaint. (Dkt. 34.) On
 19 November 28, 2014, Plaintiffs filed the now-operative Second Amended Complaint
 20 (“SAC”), which names Create as a defendant. (Dkt. 104, 110.) Create answered
 21 the SAC on February 10, 2015. (Dkt. 123.)

22 On February 17, 2015, the Ryu Law Firm, then-counsel for corporate
 23 defendants Media Journal and Chilbo, moved to withdraw from the representation.
 24 (Dkt. 128.) This Court provided two weeks for Media Journal and Chilbo to retain
 25 new counsel (Dkt. 150), and upon notification that neither had done so, granted the
 26 Ryu Law Firm’s motion to withdraw and struck Chilbo and Media Journal’s
 27 Answers (Dkt. 158).¹ The Court then granted Plaintiffs’ promptly-filed requests for

28 ¹ Corporate defendant Best4U, Inc., also represented by the Ryu Law Firm, was in the same position but did retain counsel, and through that counsel stipulated

1 the entry of default against Media Journal and Chilbo. (Dkt. 163.)

2 After Plaintiffs filed an *ex parte* application indicating that Create had not
 3 complied with discovery requests or deposition notices, on March 19, 2015, this
 4 Court ordered that Create “comply with its document production obligations by
 5 March 27, 2015.” (Dkt. 148.) Create’s document production omitted thousands of
 6 incriminating documents known to be in Create’s possession, custody or control, so
 7 Plaintiffs moved *ex parte* to compel Create’s documents and depositions, as well as
 8 to preserve and produce server request data and logs. (Dkt. 165.) On April 13,
 9 2015, Magistrate Judge Zarefsky granted that application in part, requiring Create
 10 to (1) produce certain responsive and relevant documents, including TVpad
 11 network server log data, (2) preserve TVpad network server log data, including all
 12 user request data, on a prospective basis, and (3) produce its President and 30(b)(6)
 13 witness Mr. Zhang Wenwei for depositions on or by April 16, 2015. (Dkt. 171.)

14 On April 17, 2015, Create’s counsel filed the instant motion to withdraw.
 15 (Dkt. 174.) Counsel represented in that motion and the accompanying declarations
 16 that “Create will not provide a 30(b)(6) witness for deposition in this case; that
 17 Zhang Wenwei will not participate in a deposition; that Create will not participate
 18 in any mediation; and that Create will not provide any additional documents or
 19 responses to discovery.” (Dkt. 174-1 at 3.) Importantly, Create’s counsel also
 20 declared that Create has instructed them to “cease all work in this matter,” and that
 21 Create has been informed of the consequences of its inability to proceed *pro se*.
 22 (Warlick Decl., ¶ 5 & Ex. 1.)

23 **B. Good Cause Exists To Strike Create’s Answer.**

24 Because Create has indicated that it has no intention of either retaining new
 25 counsel or participating in this lawsuit, its Answer should be stricken so that

26 _____
 27 (continued...)

28 to a consent judgment as to Plaintiffs’ claims against it, which Plaintiffs have
 lodged with the Court for approval. (Dkt. 177.)

1 Plaintiffs can promptly request that default be entered. Create has decided that it
 2 will not produce documents, participate in mediation or permit its U.S. counsel to
 3 do any work whatsoever in connection with this lawsuit. (Dkt. 174-1 at 3.) Create
 4 is well aware that this decision is likely to cause the Court to strike its Answer, for
 5 two reasons. *First*, Create executed a consent to its counsel’s withdrawal motion
 6 that expressly states Create has been “instructed that it may not proceed *pro se*, and
 7 has been given written notice of the consequences of its inability to appear *pro se*”
 8 and yet consents to withdrawal nonetheless. (Warlick Decl., Ex. 1.) *Second*, those
 9 “consequences” would obviously include the striking of Create’s Answer, given
 10 that this Court did precisely that after corporate defendants Media Journal and
 11 Chilbo failed to retain counsel in the wake of their counsel’s withdrawal motion.
 12 (Dkt. 158, 163.) The immediate striking of Create’s Answer is a just outcome, as
 13 Create’s determination to ignore Plaintiffs’ suit should not be countenanced.

14 **C. Time Is Of The Essence.**

15 As detailed in Plaintiffs’ Summary Judgment Motion, Create continues *to*
 16 *this day* to contributorily and vicariously infringe Plaintiffs’ copyrights and
 17 trademarks, to induce others to do the same, to reap handsome profits from its U.S.
 18 customers and distributors in connection with that illegal conduct, and to do all of
 19 this *willfully*, with actual knowledge that its entire business model violates
 20 American copyright and trademark law on a round-the-clock basis. (Dkt. 181-1
 21 [Motion for Summary Judgment] at 3-4, 14, 17; Dkt. 181-2 [Statement of
 22 Undisputed Facts] ¶¶ 13, 14, 23, 31, 43, 161.) Plaintiffs’ expert has calculated that
 23 the damages stemming from Create’s ongoing infringement *each day* are
 24 significant. (See Dkt. 175 [Sokol Decl.] Ex. 1 [Blum Report], filed under seal.)
 25 Equity demands that Create’s Answer be stricken without delay, so that Plaintiffs
 26 can proceed to request the entry of default against Create.

27 **III. CONCLUSION**

28 Plaintiffs do not oppose Create’s counsel’s motion to withdraw, but

1 respectfully request that the Court strike Create's Answer (Dkt. 123) as soon as is
2 practicable.

3
4 Dated: April 22, 2015

JONES DAY

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6 By: /s/ Brent D. Sokol
7 Brent D. Sokol

8 Attorneys for Plaintiffs
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EXHIBIT B

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Munhwa Broadcasting Corporation

CASE NUMBER

2:14-cv-4213-RGK(RZx)

PLAINTIFF(S)

V.

Doo Hyun Song, et al

DEFAULT BY CLERK
F.R.Civ.P. 55(a)

DEFENDANT(S).

It appearing from the records in the above-entitled action that summons has been served upon the defendant(s) named below, and it further appearing from the affidavit of counsel for Plaintiff, and other evidence as required by F.R.Civ.P. 55(a), that each of the below defendants have failed to plead or otherwise defend in said action as directed in said Summons and as provided in the Federal Rules of Civil Procedure:

Now, therefore, on request of counsel, the DEFAULT of each of the following named defendant(s) is hereby entered:

Create New Technology (HK) Co. Ltd.

May 5, 2015

Date _____

Bv Brent Pacillas

Deputy Clerk

PROOF OF SERVICE BY FEDERAL EXPRESS

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Davis Wright Tremaine, LLP, Suite 2400, 865 South Figueroa Street, Los Angeles, California 90017-2566. I am familiar with the practice at my place of business for collection and processing of correspondence for overnight delivery by Federal Express. Such correspondence will be deposited with a facility regularly maintained by Federal Express for receipt on the next business day.

On May 15, 2015, I served the following document **PLAINTIFFS' STATEMENT OF NON-OPPOSITION TO THE MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT CREATE NEW TECHNOLOGY (HK) CO. LTD.; DECLARATION OF CARLA A. MCCAULEY AND EXHIBITS A AND B** by placing a **true copy or original** in a separate envelope for each addressee named below, with the name and address of the person served shown on the envelope as follows:

SEE ATTACHED SERVICE LIST.

and by sealing the envelope and placing it for collection and delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business practices.

Executed on May 15, 2015, at Los Angeles, California.

- ☒ Federal I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Tania M. Moore

Print Name



Signature

SERVICE LIST

Francis S. Ryu, Esq. Ryu Law Firm 5900 Wilshire Blvd., Suite 2250 Los Angeles, CA 90036	Attorney for Club TVpad, Inc. and Bennett Wong
Timothy Wang Ni, Wang & Massand, PLLC 8140 Walnut Hill Lane, Suite 500 Dallas, TX 75231	Attorneys for newTVpad Ltd. Co. d/b/a newtvpad.com a/k/a TVpad USA AND Liangzhong Zhou
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